SYKT PEMANDANGAN SINAR SDN BHD & ANOR

v.

KESATUAN KEBANGSAAN WARTAWAN MALAYSIA & ANOR

COURT OF APPEAL, KUALA LUMPUR
NH CHAN JCA
ABDUL MALEK AHMAD JCA
AHMAD FAIRUZ JCA
[CIVIL APPEAL NO: W-02-300-1995]
26 NOVEMBER 1997

LABOUR LAW: *Collective agreement - Non-compliance - Company put under receivership - Management taken over by appellants -Whether appellants bound by collective agreement hitherto entered into between company and first respondent - Whether appellants the company's successors, assignees or transferees - Industrial Relations Act 1967, ss. 17(1), 33(1)*

STATUTORY INTERPRETATION: *Industrial Relations Act 1967, s. 17(1)(a) - Words "successors, assignees or transferees" therein - Whether relate to the words "the parties to the agreement" in the section - Whether only relate to "party" and "members" appearing after the word "including" therein*

Sin Poh (Star News) Amalgamated Malaysia Sdn Bhd ('Sin Poh') in this case was party to a Collective Agreement ('the Agreement') that it executed with the first respondent, the National Union of Journalists, Malaysia ('the Union'). Sin Poh was subsequently put under a receivership, and following that, its management were taken over by the appellants. In consequence, some 85 % of Sin Poh's employees were re-employed by the appellants. The appellants however did not offer any employment to the rest of Sin Poh's employees. The Union in the circumstances alleged that the appellants, as Sin Poh's successors, assignees or transferees, had breached the terms of the Agreement, and in the event, referred the non-compliance to the Industrial Court. An award, in consequence, was made by the Industrial Court wherefore it ruled that cl. 3 of the Agreement did not allow for any termination, and further that, the effect of s. 17(1) Industrial Relations Act 1967 ('the Act') was to make the Agreement binding on the appellants as successors, assignees or transferees of Sin Poh. This award, however, was quashed by the High Court, but on appeal, the Supreme Court ordered that the Industrial Court rehear and determine all the issues afresh. The Industrial Court, in the circumstances, made another award, but nonetheless ruled that the appellants were successors,

assignees or transferees of Sin Poh, and were jointly and severally bound by the Agreement by virtue of s. 17(1)(a) of the Act.

Dissatisfied, the appellants applied for an order of *certiorari* to quash the second award aforesaid. The High Court ruled that the Industrial Court (i) was not in error in deciding the issues under s. 33(1) of the Act (ii) was correct in the interpretation of s. 17(1)(a) of the Act (iii) was also correct in finding that the appellants were successors, assignees and transferees of Sin Poh. The appellants appealed and before the learned judges herein question arose as to whether the appellants, on the facts, were the successors, assignees or transferees of Sin Poh as envisaged by the provision of s. 17(1)(a) of the Act.

Held:
Per Abdul Malek Ahmad JCA

[1] What s. 17(1) of the Act really says is that, a collective agreement which has been taken cognisance of by the court shall be deemed to be an award and shall be binding on "the parties to the agreement". It is in para (a) specifically that the interpretation thereof appears to have raised a problem.

[1a] The words "successors, assignees or transferees" in the said para (a) cannot relate to the words "the parties to the agreement" but only to "party" and "members" which appear after the word 'including'. Otherwise, there ought to be commas after the word 'agreement' in the first line and the word "relates" in the fourth line.

[1b] Consequently, it is only where "the parties to the agreement" include a party which "is a trade union of employees", that it will be binding on "all members of the trade union to whom the agreement relates and **their** successors, assignees or transferees". The word **"their"** here referring specifically to the members of the trade union of employers which the appellants are not as they are individual employers.

[1c] Further, if the first respondent is correct and the literal rule is to apply, the words "and their successors, assignees or transferees" should actually appear after the word "agreement" in the first line and not at the end. As such, the collective agreement in this case cannot apply to the appellants as it can only apply to the parties to the agreement, which they are not. However, where it involves a trade union of employers, and it is not disputed that the appellants and Sin Poh are not, it will also apply to its members and their successors, assignees or transferees.

[2] The appellants, hence, are not the successors, assignees or transferees of Sin Poh and are not bound by the collective agreement of which Sin Poh was party.

[Appeal allowed.]

*[**Bahasa Malaysia** Translation of Headnotes]*

UNDANG-UNDANG BURUH: *Perhubungan perusahaan - Perjanjian Kolektif - Ketidakpatuhan - Syarikat diletak di bawah penerima - Pengurusan diambil alih oleh perayu - Samada perayu terikat dengan perjanjian kolektif yang dimeterai antara syarikat dan responden pertama sebelumnya - Samada perayu merupakan pengganti, pemegang serahhak atau penerima pindahan kepada syarikat - Akta Perhubungan Perusahaan 1967, ss. 17(1), 33(1)*

PENTAFSIRAN: *Seksyen 17(1)(a) Akta Perhubungan Perusahaan 1967 - Perkataan 'pengganti, pemegang serahhak atau penerima pindahan' di dalamnya - Samada berhubung kait dengan perkataan 'pihak-pihak kepada perjanjian' di dalam seksyen - Samada hanya berhubung kait dengan perkataan 'pihak' dan 'ahli-ahli' yang wujud selepas perkataan 'termasuk' dalam seksyen berkenaan*

Sin Poh (Star News) Amalgamated Malaysia Sdn Bhd ('Sin Poh') dalam kes ini adalah merupakan pihak kepada satu Perjanjian Kolektif ('Perjanjian') yang dimeterai dengan responden pertama, Kesatuan Kebangsaan Wartawan Malaysia ('Kesatuan'). Sin Poh kemudian dari itu telah diletak di bawah penerimaan, dan berikutnya, semua pengurusan Sin Poh telah diambil alih oleh kedua-dua perayu. Berikutnya, lebih kurang 85% dari pekerja asal Sin Poh telah diambil bekerja oleh perayu. Perayu bagaimanapun tidak menawarkan apa-apa pekerjaan kepada pekerja Sin Poh yang selebihnya. Kesatuan mendakwa bahawa dalam halkeadaan sedemikian, perayu, selaku pengganti, pemegang serahhak atau penerima pindahan Sin Poh, telah melanggar terma-terma Perjanjian, dan dengan itu telah merujuk perkara ketidak-patuhan tersebut kepada Mahkamah Perusahaan. Berikutnya, satu award telah dibuat oleh Mahkamah Perusahaan di mana ianya diputuskan bahawa fasal 3 Perjanjian telah tidak mengizinkan pembuangan kerja, dan bahawa, berdasarkan s. 17(1) Akta Perhubungan Perusahaan 1967 ('Akta'), perayu adalah terikat kepada Perjanjian selaku pengganti, pemegang serahhak atau penerima pindahan Sin Poh. Award ini telah dibatalkan oleh Mahkamah Tinggi, tetapi atas rayuan, Mahkamah Agung memerintahkan supaya Mahkamah Perusahaan mendengar semula dan memutuskan kesemua isu dari awalnya. Mahkamah Perusahaan, dengan itu, membuat satu lagi award, di mana, sama seperti awardnya yang terdahulu, diputuskan bahawa perayu adalah pengganti, pemegang serahhak atau penerima

pindahan kepada Sin Poh, dan dengan itu mereka secara bersesama dan berasingan adalah terikat kepada Perjanjian di bawah peruntukan s. 17(1)(a) Akta.

Berasa tidak puas hati, perayu memohon untuk perintah *certiorari* untuk membatalkan award yang terkemudian di atas. Mahkamah Tinggi memutuskan bahawa Mahkamah Perusahaan (i) adalah tidak silap dalam memutuskan isu-isu di bawah s. 33(1) Akta (ii) adalah betul dalam pentafsiran s. 17(1)(a) Akta (iii) adalah betul dalam memutuskan bahawa perayu adalah pengganti, pemegang serahhak atau penerima pindahan Sin Poh sebagaimana yang dibayangkan dalam peruntukan s. 17(1)(a) Akta.

Diputuskan:
Oleh Abdul Malek Ahmad HMR

[1] Apa yang sebenarnya dikatakan oleh s. 17(1) Akta ialah, suatu perjanjian kolektif yang telah diambil tahu oleh mahkamah hendaklah dianggap sebagai satu award dan hendaklah mengikat 'the parties to the agreement'. Secara khususnya, masaalah berhubung pentafsiran kelihatannya timbul dalam perenggan (a).

[1a] Perkataan-perkataan 'successors, assignees or transferees' dalam per. (a) berkenaan tidak boleh dihubung kait dengan perkataan-perkataan 'the parties to the agreement' tetapi hanya kepada perkataan 'party' dan 'members' yang wujud selepas perkataan 'including'. Jika tidak, maka tanda-tanda koma sepatutnya wujud selepas perkataan 'agreement' dalam baris pertama dan selepas perkataan 'relates' dalam baris ke empat.

[1b] Oleh hal yang demikian, hanyalah di mana 'the parties to the agreement' merangkumi satu pihak yang merupakan 'a trade union of employees', ianya akan mengikat 'all members of the trade union to whom the agreement relates and **their** successors, assignees or transferees'. Perkataan **'their'** di sini merujuk secara khusus kepada ahli-ahli kesatuan sekerja majikan-majikan yang mana perayu bukanlah kesatuan seperti itu oleh kerana mereka adalah majikan secara individu.

[1c] Selanjutnya, jika Kesatuan betul dan kaedah literal harus digunapakai, perkataan-perkataan 'and their successors, assignees or transferees' haruslah berada selepas perkataan 'agreement' dalam baris pertama dan bukan dihujungnya. Justeru itu, perjanjian kolektif dalam kes ini tidak terpakai kepada perayu kerana ia hanya terpakai kepada pihak-pihak dalam perjanjian, dan perayu bukan merupakan pihak-pihak sedemikian.

Bagaimanapun, dimana ianya melibatkan satu kesatuan sekerja majikan-majikan, dan tidak dinafikan bahawa perayu dan Sin Poh bukan kesatuan sedemikian, ianya akan terpakai kepada ahli-ahlinya dan kepada penggantinya, pemegang serahhaknya atau penerima pindahannya.

[2] Kedua-dua perayu, dengan itu, bukanlah pengganti, pemegang serahhak atau penerima pindahan Sin Poh dan mereka tidak terikat dengan perjanjian kolektif di mana Sin Poh menjadi satu pihak kepadanya.

[Rayuan dibenarkan.]

Legislation referred to:
Industrial Relations Act 1967, ss. 2, 17(1)(a), 33(1)

[Appeal from High Court, Kuala Lumpur; Originating Summon No: R2-25-93-1993]

For the appellants - Ambiga Sreenevasan (K Sivakumar with her); M/s Skrine & Co
For the respondents - Ramdas Tikamdas; M/s Siva, Ram & Assoc

Reported by Rusnah Aziz

JUDGMENT

Abdul Malek Ahmad JCA:

Award No. 244 of 1988 (hereinafter 'the first award') between Sin Poh (Star News) Almagamated (M) Sdn. Bhd. (Sin Chew Jit Poh Malaysia) – under Receivers and Managers (hereinafter 'Sin Poh') and the first respondent was handed down by the second respondent on 17 September 1988.

From the affidavits filed, the following appear to be the relevant undisputed facts:

a) on 27 April 1987, the first respondent had entered into a collective agreement with Sin Poh, which took effect on 1 January 1986;

b) on 3 September 1987, Sin Poh was placed under Receivers and Managers – after suffering accumulated losses of RM12,257,088;

c) on 28 October 1987, the Minister of Home Affairs cancelled Sin Poh's publishing permit;

d) on 23 March 1988, the Minister of Home Affairs issued the publishing permit to Sin Chew Jit Poh (Malaysia) operative from 26 March 1988;

e) for five months, therefore, there was no permit to publish;

f) eighty five per cent of Sin Poh's employees were employed by the first appellant by fresh letters of employment dated 1 April 1988 from Sin Poh;

g) on 5 April 1988, the first respondent referred a complaint of non-compliance of the collective agreement to the second respondent;

h) on 6 April 1988, a sale and purchase agreement was signed between the Receivers and Managers on behalf of Sin Poh and the second appellant;

i) on 9 April 1988, the Receivers and Managers gave notice to the first respondent that twenty six of its members will no longer be required by Sin Poh;

j) on 15 April 1988, the Receivers and Managers gave notice to the first respondent that an additional five members will no longer be required by Sin Poh;

k) these thirty one members comprise the remaining fifteen per cent of Sin Poh's employees who did not resign from Sin Poh and were not offered employment by the first appellant.

This appeal essentially concerns the interpretation of s. 17(1) of the Industrial Relations Act 1967 (hereinafter 'the Act') and on the facts of this case, the question arises as to whether the appellants are the successors, assignees or transferees of Sin Poh as envisaged by that provision.

The first award was as a result of the first respondent referring under s. 33(1) of the Act on 10 May 1988 a case of interpretation of the collective agreement taken cognisance of by the court *vide* cognisance No. 71/87 seeking the following:

> The Union contends that Rimbunan Hijau Estate Sdn. Bhd. and or its subsidiary Pemandangan Sinar Sdn. Bhd. are bound by the Collective Agreement dated 27th April 1987 (Cognizance No. 71/87) because of their position as successors, assignees or transferees of Sin Poh (Star News) Amalgamated (M) Sdn. Bhd. – (Sin Chew Jit Poh Malaysia) – under Receivers and Managers and therefore legally, socially and morally has to observe all the terms contained in the Collective Agreement.

It is relevant to reproduce extracts of the first award to get a clearer picture of the matter. At para. 2, the second respondent said:

> Also we are unable to have enough evidence on the link between Syarikat Pemandangan Sinar Sdn. Bhd. and Syarikat Rimbunan Hijau Estate Sdn. Bhd.; evidence will have to be taken at a subsequent date to determine the connection between these two companies, and how the Sale and Purchase Agreement with

the Company affects each of them. This Award will therefore be confined to the Application for interpretation by NUJ.

This finding came about because the appellants had been brought in as parties in view of two other related cases.

Paragraphs 4 and 5 of the first award read as follows:

> 4. Having heard exhaustive submissions from Counsels, we would just briefly mention the reasons for our interpretation. On the issue that some clause or article of an award or collective agreement has to be specifically referred to for interpretation on an application under Section 33(1) of the Act, we accept the suggestion by Encik H.K. Teh, Counsel for the Receivers and Managers of the Company, that the interpretation sought can apply to Clause I of the Agreement. Parties will have to know who the successors, assignees or transferees of the Company is/are.
>
> 5. Puan Ambiga Sreenivasan, Counsel for Syarikat Pemandangan Sinar Sdn. Bhd. and Syarikat Rimbunan Hijau Estates Sdn. Bhd., cited C.P. Mills on "Industrial Disputes Law In Malaysia" 2nd Edition, at p. 50, where the author gave his views on Section 17(1) (a) of the Act, that it should, to be consistent with Section 32 of the Act:
>
> > mean that an agreement is to be binding on the successors, both of the parties to the agreement, and of the relevant members of the employers' trade union which is a party to the agreement.
>
> Puan Ambiga Sreenivasan tried to convince us that this interpretation is wrong but the more we looked at Section 17(1)(a), the more we became convinced that it is a very extensive provision.

Then, at paragraph 8 of the first award, it is stated:

> 8. We follow the observations of Azmi J. (as he then was) in *Re Application by Dunlop Estates Bhd.*, [1980] 1 MLJ 243 and Denning LJ in *Seafood Court Estates v. Asher*, [1949] 2 ALL E.R. 155, 164, cited by Encik T. Ramdas, Counsel for NUJ, that in interpreting a statute, the intention of Parliament must not only be from the language of the statute, but also from the social conditions which gave rise to it and the mischief which it was passed to remedy.

Finally, paras 11 and 12 of the first award conclude in the following manner:

> 11. In this case, the wording of Clause 3 of the Company's Collective Agreement with the Union does not allow for any termination and it continues to be of effect until replaced by another collective agreement or an award of the Court. Section 17(1)(a) has the effect of legislating

for the Agreement to be binding on the successor, assignee or transferee of the Company.

12. When making his reply to submissions by Counsels for the companies involved, Encik T. Ramdas, Counsel for NUJ applied for an amendment to the interpretation sought (as in para 1 above) by deleting the words "its subsidiary" from the wording. This was allowed. We do not know who the real successor is between the two but it should be one or the other. Another hearing will be fixed to determine that issue, unless it can be settled by negotiation. For the moment, we are unanimously of the view, after taking into consideration the Sale and Purchase Agreement (Exhibit U1), that the interpretation sought, as amended, is correct.

On 18 July 1990, the High Court ordered that the first award made by the second respondent be quashed, that the second respondent do rehear and determine whether the first or the second or both appellants if at all is or are the successor, assignee or transferee of Sin Poh, that the interpretation by the second respondent of s. 17(1) of the Act be applied and is hereby upheld, that there be no order as to costs and that leave to appeal on the interpretation of s. 17(1) of the Act be granted.

In the grounds of judgment dated 27 February 1991, the learned trial judge had said:

I therefore agree that the Industrial Court had made the correct interpretation of s. 17(1) of the Act to "mean that an agreement is to be binding on the successors, both of the parties to the agreement, and of the relevant members of the employers' trade union which is a party to the agreement.

Rider:

It may be pertinent for me to mention that I had on the hearing of this motion on 18.7.1990 issued an order of *certiorari* to quash the decision of the Industrial Court in Award 244/88 which stated "we do not know who the real successor (of Sin Poh (Star News) Amalgamated Malaysia Sdn. Bhd.) is between the two (the appellants) **but it should be one or the other**". This is because no evidence was taken by the Industrial Court, nor submissions by the parties heard before it to determine the issue as to whether the appellants, either of them or none of them were/was a successor/successors of Sin Poh (Star News) Amalgamated Malaysia Sdn. Bhd.

On appeal by the appellants, the Supreme Court on 14 August 1991 allowed the appeal to the extent of varying the order of the High Court dated 18 July 1990 as follows:

(a) that the order as regards s. 17(1) of the Act is set aside;

(b) that the second respondent is directed to rehear and determine all the issues afresh,

and that there will be no order as to costs and that the deposit of RM500 be refunded to the appellants.

The second respondent's award No. 190 of 1993 (hereinafter 'the second award') as between Sin Poh together with the appellants and the first respondent on 30 June 1993 was to the effect that the appellants are successors, assignees or transferees of Sin Poh and as such, because of their relationship which is not denied, they, by virtue of s. 17(1)(a) of the Act, are jointly and severally bound by the collective agreement.

Paragraphs 7, 8 and 9 of the second award states:

7. **Issues:**

Hence, the case is back before us on the same issues and that is whether or not Syarikat Rimbunan Hijau Estate Sdn. Bhd. and Syarikat Pemandangan Sinar Sdn. Bhd. are bound by the collective agreement dated 27th April 1987 because of their position as successors, assignees or transferees of Sin Poh (Star News) Amalgamated (M) Sdn. Bhd. (Sin Chew Jit Poh Malaysia).

8. The Union contended that, because (1) of the takeover of the work office and the newspaper-publishing permit by Syarikat Pemandangan Sinar Sdn. Bhd. and (2) of the Sale and Purchase Agreement entered into between Receivers and Managers on behalf of the Company and Syarikat Rimbunan Hijau Estate Sdn. Bhd., both Syarikat Pemandangan Sinar Sdn. Bhd. and Syarikat Rimbunan Hijau Estate Sdn. Bhd. were successors, assignees or transferees of Sin Poh (Star News) Amalgamated (M) Sdn. Bhd. (Sin Chew Jit Poh Malaysia). And as such, by virtue of Section 17 of the Industrial Relations Act, 1967, they were bound by the 1986 Agreement.

9. Rimbunan Hijau and Pemandangan Sinar contended otherwise. They submitted the following for our consideration:- (1) This was not an interpretation exercise, as there was no clause in the 1986 Agreement which made it binding as the successors, assignees or transferees. It should come before us under Section 26 of the Act; (2) Section 17(1)(a) of the Act does not apply. The words "their successors, assignees or transferees" refer to "all members of the trade union to whom the Agreement relates" and not to the word "parties"; (3) In the event, Section 17 of the Act

applies, Pemandangan Sinar and Rimbunan Hijau are not the successors, assignees or transferees. The reference to the 1986 agreement is not quite correct here as although it took effect on the 1st January 1986, it was only entered into on the 27th April 1987.

Then at paras 11, 12 and 13 of the second award, the second respondent held:

11. **Whether Section 17(1)(a) of the Act applies**

Section 17(1)(a) of the Act is plain and clear. It says that a collective agreement which has been taken cognizance of by the Industrial Court is deemed to be an Award of that Court and (1) is binding on the parties to the agreement, their successors, assignees or transferees; and (2) when a party to the collective agreement is a trade union of employers, is binding on

all the employers who are members of the trade union to whom the agreement relates and the members' successors, assignees or transferees. The words "their" in Section 17(1)(a) of the Act must refer to the word "parties" and "members" appearing in that Section. There is in fact, no ambiguity in Section 17(1)(a) of the Act and the above construction is based on the literal and grammatical construction of Section 17(1) which is plain and clear. And it is consistent with Section 32 and 33 of the Act.

12. If the Legislature had wanted to exclude the successors, assignees or transferees of the parties who are not members of a trade union of employers, as suggested by Pemandangan Sinar and Rimbunan Hijau, it would have done so expressly. And if it was the intention of the Legislature to restrict the Scope of Section 17(1)(a) of the Act to only the successors, assignees or transferees of the members of the trade union of employers and exclude the successors, assignees or transferees of individual employers, then it would have adopted the drafting technique and style of Section 32(1)(d) of the Act.

13. In our view, Section 17(1)(a) of the Act should be interpreted to mean that a collective agreement is binding on the parties to the agreement and their successors, assignees or transferees. When a party is a party to the collective agreement is a trade union of employers, it is binding on all the employers to whom the agreement relates and its members' successors, assignees or transferees. And we so hold accordingly.

On the application of the appellants to the High Court for an order of *certiorari* for the purpose of quashing the second award, the High Court judge had stated:

The background facts of the case are clearly set out in the Award. The issue before the Industrial Court was whether Syarikat Rimbunan Hijau Estate Sdn. Bhd. and Syarikat Pemandangan Sinar Sdn. Bhd. are bound by the collective agreement dated 27 April 1987 because of their position as successors, assignees or transferees of Sin Poh (Star News) Amalgamated Malaysia Sdn. Bhd.

I find that the Industrial Court was not in error in deciding the issue under s. 33(1) of the Industrial Relations Act 1967. I also find that the court was correct in its interpretation of s. 17(1)(a) of the Act. The Industrial Court was also not in error in finding that the Applicants, Syarikat Rimbunan Hijau Estate Sdn. Bhd. and Syarikat Pemandangan Sinar Sdn. Bhd. are the successors, assignees and transferees of Sin Poh (Star News) Amalgamated Malaysia Sdn. Bhd.

I therefore dismissed the application with costs.

As for the interpretation of s. 17(1) of the Act, learned counsel for the first respondent maintained that the literal rule should apply and the provision should be given its ordinary meaning.

He was of the opinion that the word "their" before the words "successors, assignees or transferees" in para. (a) of sub-s. (1) of s. 17 of the Act must refer to "parties" and "members" appearing before it. For ease of reference, the said provision reads:

17(1) A collective agreement which has been taken cognizance of by the court shall be deemed to be an award and shall be binding on –

(a) the parties to the agreement including in any case where a party is a trade union of employers, all members of the trade union to whom the agreement relates and their successors, assignees or transferees; and

(b) all workmen who are employed or subsequently employed in the undertaking or part of the undertaking to which the agreement relates.

For this purpose, it is also relevant to look at the definitions of "award" and "court" in s. 2 of the Act which are defined as follows:

"award" means an award made by the court in respect of any trade dispute or matter referred to it or any decision or order made by it under this Act;

"Court" means the Industrial Court appointed under Part VII and includes, unless the contrary intention appears, any court under s. 22 constituted for the purpose of dealing with any trade dispute or matter referred to it, and any division thereof;

Going back to s. 17(1) of the Act, what it really says is that a collective agreement which has been taken cognisance of by the court, as in this case, shall be deemed to be an award and shall be binding on "the parties to the agreement". It is in para. (a) specifically that the interpretation thereof appears to have raised a problem

In our considered view, the words "successors, assignees or transferees" therein cannot relate to the words "the parties to the agreement" but only to "party" and "members" which appear after the word "including". Otherwise, there ought to be commas after the word "agreement" in the first line and "relates" in the fourth line. Consequently, only where "the parties to the agreement" include a party which "is a trade union of employers" then, and only then, it will be binding on "all members of the trade union to whom the agreement relates and their successors, assignees or transferees", the word "their" there referring specifically to the members of the trade union of employers which the appellants are not as they are individual employers. Further, if the first respondent is correct and the literal rule is to apply, the words "and their successors, assignees or transferees" should actually appear after the word "agreement" in the first line and not at the end. As such, it is our finding that the collective agreement in this case cannot apply to the appellants as it can only apply to the parties to the agreement which they are not, but where it involves a trade union of employers, and it is not disputed that the appellants and Sin Poh are not, it will also apply to its members and their successors, assignees or transferees.

Having interpreted s. 17(1) of the Act in this manner, and after deliberating dutifully on the arguments and authorities, we came to the unanimous conclusion that the appellants are not the successors, assignees or transferees of Sin Poh and are not bound by the collective agreement of which Sin Poh was a party. The appeal was, therefore, allowed with costs here and below. Accordingly, we set aside the order of the High Court and quashed the award of the second respondent. The deposit was refunded to the appellants.